

**Memorandum to the File  
Case Closure**

Alleged Nepotism and Preferential Treatment  
Jesse Brown VA Medical Center, Chicago, Illinois  
(2010-03291-IQ-0177)

The VA Office of Inspector General Administrative Investigations Division investigated an allegation that [REDACTED] Jesse Brown VA Medical Center, forced an employee to resign so that he could hire his son-in-law. To assess this allegation, we interviewed [REDACTED] the complainant, and VA Medical Center employees. We also reviewed emails and other relevant documents, as well as applicable Federal laws, regulations, and VA policies.

(b) (7)(C)

Federal law states that a public official may not appoint, employ, promote, advance, or advocate for the appointment, employment, promotion, or advancement, in or to a civilian position any person who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a civilian position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative. 5 USC § 3110(b). The law stipulates that an individual appointed, employed, promoted, or advanced in violation of this provision is not entitled to pay, and money may not be paid from the Treasury as pay to an individual so appointed, employed, promoted, or advanced. 5 USC § 3110(c). Federal law also requires that the recruitment, selection, and advancement of Federal employees be based on merit, after fair and open competition. 5 USC § 2301(b)(1).

The Standards of Ethical Conduct for Employees of the Executive Branch establish a duty for employees to refrain from actions that would create the appearance of partiality in decisions affecting the financial interests of close relatives. The Standards also prohibit an employee from using his public office for the private gain of relatives and prohibits the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise to himself, to friends, or to relatives. 5 CFR §§ 2635.502 and 702.

VA policy mandates that the statutory restrictions on the employment of relatives apply to all VA employees; that public officials may not recommend or refer a relative for consideration by a public official standing lower in the chain of command; that money shall not be paid from the Treasury as pay to an individual appointed, employed, promoted, or advanced in violation of this section; and that extreme care must be taken to avoid any possibility of likelihood that the nepotism law may be violated in an employment action. It further requires that management officials take appropriate actions to avoid situations which have the potential for, or appearance of, being a violation of nepotism requirements, and at a minimum, document cases where relatives are employed or being considered for employment in the same organization element or chain of command. VA Handbook 5025, Part VII, Paragraphs 1-3.

██████████'s Resignation from the VA Medical Center

Personnel records reflected that ██████████ was appointed as a ██████████ ██████████ at the VA Medical Center on July ██████████ 2009, and that he resigned his position on May ██████████ 2010, about 2 months before the end of his 1-year probationary period. ██████████ told us that in late March or early April 2010, ██████████ and the Medical Center ██████████ met with him. He said that ██████████ told him that "things are not working out" and asked for his resignation by June 4. ██████████ further said that he agreed to resign, because ██████████ could remove him, since he was within his probationary period. He said that he was also concerned that should a future employer speak to ██████████ he was afraid that ██████████ would give him a bad recommendation if he did not resign.

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██████████ told us that in late November or early December 2009, he and ██████████ met with ██████████ to discuss their dissatisfaction with his performance. ██████████ said that ██████████ was not doing a good job as either a supervisor or a pharmacist and that he heard reports from the pharmacy staff that ██████████ was "hiding out" in his office or doing personal business on the internet instead of working in the pharmacy. ██████████ also said that he and ██████████ discussed this with ██████████ during their late 2009 meeting and advised him that he needed to start doing a better job and step up to his responsibilities as a working supervisor. Further, ██████████ said that when ██████████ failed to improve his performance, after repeated counseling, he told him that the pharmacy leadership would take action to remove him before the end of his probationary period. ██████████ told us that ██████████ opted to resign rather than be terminated.

(b) (7)(C)

██████████ who was also the ██████████'s supervisor, told us that she heard complaints from pharmacy staff and residents that ██████████ engaged in egotistical behavior and attended to personal business during duty hours, instead of working in the pharmacy. She said that ██████████ also engaged in unprofessional and insubordinate behavior toward her. ██████████ stated that she tried to help ██████████ improve his performance by relieving him of special projects and sending him to courses and conferences to develop his leadership and supervisory skills, but she said that his performance did not improve. ██████████ further said that ██████████'s technical performance as a pharmacist was also unsatisfactory and that he made seven medication errors between ██████████ 2009 and ██████████ 2010, which she claimed was an unusual number of errors for ██████████. Moreover, she said that when confronted with his errors, the complainant showed no "remorse" and took no responsibility for them.

(b) (7)(C)

██████████ told us that in ██████████ 2009, she and ██████████ met with the complainant to discuss his unsatisfactory performance. She said that he responded to ██████████'s counseling defensively and would not take responsibility for his own shortcomings. She also said that ██████████'s performance did not improve after this meeting, despite additional training and closer supervision and that he continued to make medication errors. ██████████ told us that she and another senior pharmacist finally approached ██████████ and she said that they decided to remove ██████████ before the end of his probationary period.

(b) (7)(C)

Senior pharmacists corroborated [REDACTED]s and [REDACTED]s accounts of [REDACTED]s unsatisfactory performance. One told us that [REDACTED] was "difficult to work with," did not take direction or feedback well, and that his "arrogant" personality caused problems with pharmacy staff. Another, who worked part-time in [REDACTED]s section, said that he witnessed [REDACTED] spending time in his office and conducting personal business on the internet when he should have been working in the pharmacy. Several senior pharmacists also told us that [REDACTED] made an unusual number of medication errors and that when they tried to discuss his errors with him, he made excuses and would not take responsibility for the errors.

(b) (7)(C)

#### *[REDACTED]s Son-in-Law Selected for the VA Medical Center Residency Program*

Personnel records reflected that [REDACTED]s son-in-law arrived at the Medical Center in [REDACTED] 2009 as [REDACTED] pharmacy resident. Records further reflected that after completing his residency in [REDACTED] 2010 he became a [REDACTED] pharmacist. [REDACTED] told us that prospective residents were required to submit an application package, including a letter of intent, curriculum vitae, transcripts, and three letters of recommendation. She said that she and her staff evaluated each application, assigned points for each applicant's grade point average with an emphasis on grades in "therapeutics" and clinical rotations. She also said that they assigned points for each applicant's letter of intent, letters of recommendation, and other items such as clinical research, honors, awards, leadership, and employment as a pharmacist. [REDACTED] told us that they then added up the points and each applicant received a numerical score with the highest possible score being 35. She said that the 60 or so applicants with the highest scores were then invited to interview for eight residency slots.

(b) (7)(C)

[REDACTED] told us that between January and March 2009, she and 25 pharmacy preceptors (clinical pharmacists who mentored and instructed residents and pharmacy students) interviewed the applicants using a set of four standard interview questions selected by the [REDACTED]. She said that the interviewers scored each applicant on his or her interview performance and the [REDACTED] tallied the scores to get a final interview score for each applicant. She further said that the 25 preceptors then met as a committee to discuss the applicants and that she [REDACTED] a second-year resident, and eight current first-year residents were all members of this committee. [REDACTED] told us that after discussing all the applicants, she provided the committee members a list of all the applicants, their grade point averages, application scores, and interview scores. She said that the members then ranked the applicants by anonymous ballot, ranking the 60 applicants in eight tiers, from tier one (the highest) to tier 8 (the lowest). [REDACTED] said that after the committee members ranked the candidates, her staff entered the scores into a spreadsheet program to establish a final ranked list of applicants from 1 to 60, and she said that they then submitted the ranked list of residency applicants to the American Society of Health-System Pharmacists (ASHP) Resident Matching Program (RMP), which matches each candidate to a residency program (a one-to-one match), taking into account the ranked preferences of the candidates and the institutions. [REDACTED] told us that as a condition for participating in RMP, applicants and institutions agreed to accept the results as final.

(b) (7)(C)

Personnel records reflected that [REDACTED]'s son-in-law submitted an application, which was ultimately scored 30 out of a maximum 35 points by the [REDACTED]'s staff. Out of 107 applications, 9 received scores of 30 or above, with the top four scores being 30.5, 32, 32.5, and 34. Ranking sheets showed that [REDACTED]'s son-in-law received an interview score of 14.6, out of a possible 15. Records also reflected that all members of the selection committee, except one, ranked [REDACTED]'s son-in-law in the first or second tier of applicants. In the final list provided to the RMP on March [REDACTED] 2009, [REDACTED]'s son-in-law was listed in the first tier and as number 7 out of 60 applicants. (b) (7)(C)

[REDACTED] told us that his son-in-law went through the same selection process as all the other residents and that he was selected "on merit and nothing else." [REDACTED] said that during the meeting of the selection committee, he announced that a named applicant was his son-in-law and that he did not "want [him] here because I am here; nor do I want him not here because I am here." [REDACTED] told us that he did not remember if he participated in the committee's discussion of his son-in-law for the residency program, but said that he participated in the ranking of pharmacy residency applicants by secret ballot, ranking his son-in-law in the top tier of applicants. Members of the ranking committee differed on whether [REDACTED] participated in the committee's discussion of his son-in-law for the residency program, but they all said that [REDACTED] did not advocate for his son-in-law's selection. Further [REDACTED] told us that the ultimate decision to select [REDACTED]'s son-in-law for the residency program was made outside of VA when the ASHP RMP matched him to the VA Medical Center. (b) (7)(C)

[REDACTED]'s son-in-law hired as a [REDACTED] pharmacist

In a March [REDACTED] 2010, email, [REDACTED] told pharmacy residents about an opening for a VA Medical Center evening [REDACTED] pharmacist position. [REDACTED] told us that management was not required to announce the vacancy more widely, as pharmacists were hybrid title 38 employees, for whom management had direct hiring authority. [REDACTED] and other [REDACTED] told us that the resignation of a [REDACTED] pharmacist created the vacancy in September 2009 and that they held it open until the residents graduated in mid-2010. They said that the Pharmacy Service had a long-standing preference for hiring their own residents, as they already passed through a rigorous selection and training process by the pharmacy staff. (b) (7)(C)

Personnel records reflected that [REDACTED]'s son-in-law and another resident applied for the position, and on April [REDACTED] 2010, a panel of senior pharmacists interviewed the two resident applicants. Records further reflected that [REDACTED] resigned his position in early April 2010, which created a second vacancy and that two residents, one being [REDACTED]'s son-in-law, were selected to fill the two vacancies. (b) (7)(C)

[REDACTED] told us that he recused himself from this hiring process, which consisted of a panel interview, rating and ranking of the applicants, and a Professional Standards Board (PSB) to make the final recommendation as well as the entry grade and rate of pay. The Assistant Chief for Pharmacy Operations told us that [REDACTED] told her that he recused himself from the selection process (interview panel and PSB), and she said that he did not participate in the process in any way. The head of the interview panel

told us that [REDACTED] asked her and [REDACTED] to conduct the selection process, and she said that [REDACTED] did not advocate for his son-in-law or involve himself in the process. Personnel records reflected that [REDACTED] was not a member of the interview panel or PSB that recommended his son-in-law's appointment. Records further showed that [REDACTED] signed the memorandum conveying the Board's recommendation that [REDACTED]'s son-in-law be appointed as a [REDACTED] pharmacist. (b) (7)(C)

Since the initiation of our investigation, VA Medical Center leadership took action to avoid any appearance of nepotism or preferential treatment by relocating [REDACTED]'s son-in-law to another unit within the Medical Center so that [REDACTED] would not be in his supervisory chain.

Conclusion

We concluded that [REDACTED] did not remove [REDACTED] from his position to hire his son-in-law. [REDACTED] took action based on [REDACTED]'s unsatisfactory performance as a pharmacist and supervisor and that after learning that pharmacy leadership intended to remove him for his poor performance, [REDACTED] opted to resign rather than be terminated. We also found that [REDACTED]'s son-in-law was selected for the residency program by means of a structured process in which [REDACTED]'s involvement was ministerial. Although [REDACTED] should have recused himself from voting, at least in the case of his son-in-law, his one vote amongst the others did not decide the outcome. That, instead, was determined by a non-VA entity. Further, [REDACTED] was not involved in the decision to hire his son-in-law as a member of the pharmacy staff, as [REDACTED] recused himself from that hiring effort. Therefore, we are closing the investigation without issuing a formal report or memorandum. (b) (7)(C)

Prepared by [REDACTED]

3/15/11  
Date

Approved by: [REDACTED]

3/16/11  
Date